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Appeal from Circuit Court, Lee County.

Proceedings between A. F. Litton and J. T. Flanary and another, as regards a judicial sale. From a decree ordering a resale, said Litton appeals. Reversed and remanded, with instructions.

R. T. Irvine, of Big Stone Gap, and *Pennington Bros.*, of Pennington Gap, for appellant.

J. W. Orr and *B. H. Sewell*, both of Jonesville, for appellees.

JOHNSTON v. JOHNSTON.

Sept. 7, 1914.

[82 S. E. 694.]

1. **Divorce (§ 49*)—Condonation.**—Acts of infidelity of a husband, occurring and being known to the wife long before their marital relations are broken off, are condoned.

[Ed. Note.—For other cases, see Divorce, Cent. Dig. §§ 171-179; Dec. Dig. § 49.* 4 Va.-W. Va. Enc. Dig. 742.]

2. **Appeal and Error (§ 1027*)—Harmless Error.**—One cannot complain of refusal to delay the trial to allow the retaking of depositions as to matter which could not affect the result of the suit.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 4033; Dec. Dig. § 1027.* 1 Va.-W. Va. Enc. Dig. 582.]

Appeal from Circuit Court, Giles County.

Suit by J. Raleigh Johnston against Nona Johnston. From a decree granting divorce, defendant appeals. Affirmed.

Hugh G. Woods, of Princeton, for appellant.

W. B. Snidow, of Pearisburg, for appellee.

DENNIS et al. v. DENNIS et al.

Sept. 7, 1914.

[82 S. E. 696.]

1. **Partition (§ 9*)—By Act of the Parties—Parol Partition.**—A parol partition of land, owned by a mother and son as tenants in common, by which the son was to receive three-fifths instead of one-half of the land, could not be enforced after the mother's death, where no survey was made or fence erected to indicate the line, and it did not satisfactorily appear that a line was agreed upon so partitioning the land.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.